

### REMARKS

In a first Office Action dated October 11, 2005, the Examiner rejected claims 1-3 under 35 U.S.C. §103(a) as being unpatentable over Cheng et al. (U.S. patent application no. 2002/0191544, hereinafter referred to as "Cheng"). The Examiner allowed claims 4-14. The rejections are traversed and reconsideration is hereby respectfully requested.

The applicants thank the Examiner for the allowance of claims 4-14.

The Examiner rejected claims 1-3 under 35 U.S.C. §103(a) as being unpatentable over Cheng. Specifically, with respect to claim 1, the Examiner contended that Cheng teaches receiving a first bad frame a first multiple times (paragraphs 0020 and 0021), sending a first number of Acknowledgments (ACKs) or Negative Acknowledgments (NAKs) in response to the received first bad frames (paragraphs 0020 and 0021), and declaring the first bad frame an aborted frame (paragraphs 0016 and 0017). The Examiner acknowledged that Cheng does not teach any of receiving a second bad frame a second multiple times, sending a second number of ACKs or NAKs in response to the received second bad frames, wherein the first and the second number of ACKs or NAKs differ, and declaring the second bad frame an aborted frame. However, the Examiner contended that it is obvious to one of ordinary skill in the art that bad frames will occur a second multiple times, that the second number of ACKs or NAKs will differ due to noise and interference in the radio system, and that the second frame may be aborted, too. The applicants respectfully disagree.

Nowhere is it taught, nor is it obvious to one of ordinary skill in the art, that a number of ACKs or NAKs conveyed before a frame is aborted differs from frame to frame. While a number of ACKs or NAKs conveyed in response to receipt of a bad frame may differ due to noise and interference in a radio system, this is a variation in a number of ACKs or NAKs conveyed before a frame is correctly received. That is, the radio system conditions may cause a variation in a number of times that a frame is conveyed before being correctly received. Such is the reason for using RLP for if a frame, once erroneously received, will always be erroneously received then retransmissions of the frame may be a waste. However, a variation in a number of ACKs

or NAKs conveyed before a frame is correctly received is completely different from, and does not teach, any variation in a number of ACKs or NAKs conveyed before giving up, that is, deciding to abort a frame. To the contrary, in the prior art, the number of ACKs or NAKs conveyed before aborting a frame is fixed.

MPEP Section 706.02(j) requires that, in an obviousness rejection, the prior art reference must teach or suggest all of the claim limitations. As Cheng does not teach a receiving of a second bad frame multiple times, which is acknowledged by the Examiner, Cheng cannot be construed to suggest a number of ACKs or NAKs conveyed before aborting such a frame, let alone that such a number of ACKs or NAKs differs from a number of ACKs or NAKs conveyed before a first frame is aborted. In fact, the applicants contend that the only suggestion to modify Cheng to teach the features of claim 1 is found in the applicants' disclosure, in violation of MPEP Section 706.02(j). Therefore, the applicants contend that Cheng does not teach, or even suggest, the features of claim 1 of sending a first number of ACKs or NAKs in response to receiving a first bad frame multiple times, declaring the first bad frame an aborted frame, sending a second number of ACKs or NAKs in response to receiving a second bad frame multiple times, and declaring the second bad frame an aborted frame, wherein the first and the second number of ACKs or NAKs differ. Accordingly, the applicants respectfully request that claim 1 may now be passed to allowance.

Since claims 2 and 3 depend upon allowable claim 1, the applicants respectfully request that claims 2 and 3 may now be passed to allowance.

As the applicants have overcome all substantive rejections and objections given by the Examiner and have complied with all requests properly presented by the Examiner, the applicants contend that this Amendment, with the above discussion, overcomes the Examiner's objections to and rejections of the pending claims. Therefore, the applicants respectfully solicit allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Respectfully submitted,  
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